



# Berryman

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June 30, 2015

Bill Cathcart  
Cathcart and Dooley  
2807 North Classen Avenue  
Oklahoma City, Oklahoma 73106

**Re: Larry and Tammy Wright,  
Plaintiffs  
v.  
National Lloyds Insurance Company, et al.  
Defendants  
District Court of Murray County  
State of Oklahoma  
Case #: CJ-2014-47**

Dear Mr. Cathcart:

The following report details to date my pertinent observations, opinions and conclusions related thereto and it can be changed only in writing by the undersigned. My opinions are based upon my review of the documentation provided to me and a site visit I conducted on June 19, 2015. In forming my opinions I utilized my thirty-seven (37) years of experience as a construction general contractor as well as my formal education, training and knowledge previously acquired. I reserve the right to supplement this report to address additional information made available to me and to provide illustrative exhibits at a later date.

## **DOCUMENTS REVIEWED**

1. Claim file NI357801
2. Vertex Roofing file
3. Insurance Busters' file
4. Documents from Insurance Busters in response to Subpoena

5. Deposition of Larry Wright taken on 5/13/15
6. Deposition of Tammy Wright taken on 5/13/15
7. Arbuckle Roofing Documents in response to Subpoena
8. Eagle View Report, 105 East Benton Avenue, Davis, OK

### **QUALIFICATIONS**

I have been a general contractor since 1978 and have performed numerous property restoration projects for owners whose building structures have sustained damages caused by wind and hail. I routinely examine structures for the extent and cause of sustained damages and submit construction proposals to the public for a property's restoration. In the regular course of business I estimate the construction cost and outline the scope of work that is an integral part of my firm's offers to contract for needed property restoration. I interface with insurance professionals in the course of business and have developed a keen understanding of the customary means, methods and pricing for the restoration of damaged real property.

### **BACKGROUND**

On or about May 23, 2013 the subject residence, 105 East Benton Avenue, Davis, Oklahoma, owned by Larry and Tammy Wright (Wright), was damaged by storm activity. Several months after the storm, the Wrights filed an insurance claim with National Lloyds Insurance Company (Lloyds) under their insurance policy #OD6010395 and Lloyds assigned the loss claim #NL357801. Lloyds inspected and photographed the home and provided a restoration estimate of damages sustained. Lloyds estimated the property damages as follows: \$6,286.51 for the dwelling damages and \$2,923.43 for damages to "other structures" (e.g. rear yard shed).

I reviewed the documents outlined above and conducted a site visit on 6/19/15 in order to form opinion(s) concerning:

1. The nature and extent of the storm damages and the present condition of the property.
2. The estimating methods used by Lloyds and the reasonableness of their damage repair estimate for the dwelling and "other structures".

## **DESCRIPTION**

The 105 East Benton Avenue property is a single level, single family residence. The home appears to be constructed on a concrete masonry stem wall foundation with a partial basement. The home is framed with dimensional lumber. The roof structure utilizes traditional stick framing and re-sawn decking covered with laminated, asphalt composition shingle roofing. The exterior cladding of the dwelling structure is a combination of painted clap board siding and board-and-batten wood siding. The property is deemed to face south for the purposes of this report.



## **SUMMARY OF OPINIONS**

**Opinion #1:** *The subject property suffered limited storm damage caused by hail that advanced generally from a northerly direction for there is no indication of hail damages to the south, east or west elevations of the property. Unrelated to hail, the property also exhibits signs of blemishes caused by non-storm factors, such*

*as age, wear and lack of maintenance. Many of these blemishes appear to pre-date the storm, but the Plaintiffs mistakenly believe that they are storm related.*

**Opinion #2:** *Lloyds followed industry standard methods in its determination of the proper cost to restore the storm damages to the dwelling structure and the “other structures” of the property. The Lloyds estimate expresses a scope of work that reasonably addresses observations that were consistent with damages caused by storm. The estimate describes restoring and/or replacing items by utilizing materials and techniques that would restore the home to its pre-loss condition; however, much of the restoration work outlined in the Lloyds estimate has not been done.*

### **BASIS OF OPINIONS**

**Opinion #1:** *The subject property suffered limited storm damage caused by hail that advanced generally from a northerly direction for there is no indication of hail damages to the south, east or west elevations of the property. Unrelated to hail, the property also exhibits signs of blemishes caused by non-storm factors, such as age, wear and lack of maintenance. Many of these blemishes appear to pre-date the storm, but the Plaintiffs mistakenly believe that they are storm related.*

- 1.1. I observed evidence of hail impact damage to the peeling paint on the lower half of the north elevation siding as well as the fascia at this elevation; however, this was the only elevation with hail impact damage.







- 1.2.** The exterior painted siding and fascia at the south, east and west elevations had not been damaged by hail, but similar to the north elevation, these elevations were dilapidated and in a state of disrepair. The extent and degree of the peeling paint indicate this deteriorating condition has been present and ongoing for some time. Although not intended to be an exhaustive recount of all available examples, the following photographs are representative of my observations:



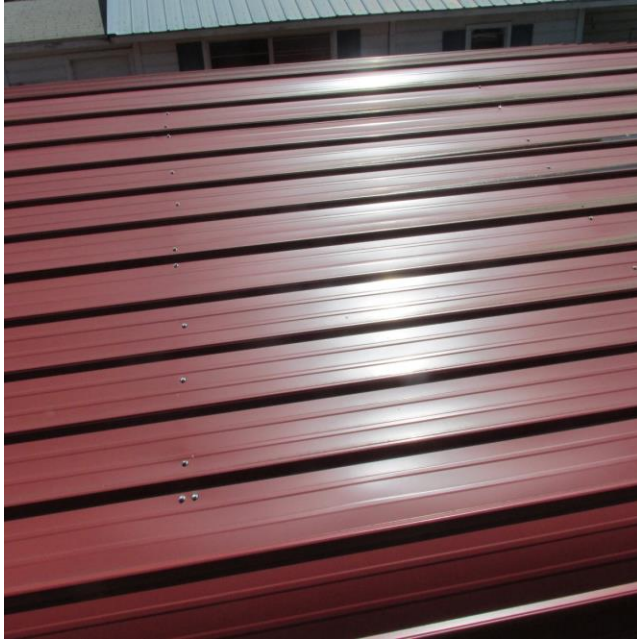




- 1.3.** The light gauge metal exhaust vent covers at the roof also offer evidence of hail damage. Based upon the size of the dents, the hail appears to have been approximately  $\frac{1}{2}$ "- $\frac{3}{4}$ " in diameter.



**1.4.** The metal carport, adjacent to the home was not damaged by hail.





**1.5.** The storage shed roof and siding were not damaged by hail



1.6. The window screens at all elevations were not damaged by hail.



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**Opinion #2:** *Lloyds followed industry standard methods in its determination of the proper cost to restore the storm damages to the dwelling structure and the “other structures” of the property. The Lloyds estimate expresses a scope of work that reasonably addresses observations that were consistent with damages caused by storm. The estimate describes restoring and/or replacing items by utilizing materials and techniques that would restore the home to its pre-loss condition; however, much of the restoration work outlined in the Lloyds estimate has not been done.*

- 2.1. Lloyds appears to have inspected the property using common practices.
- 2.1.1. Lloyds conducted a site inspection on 2/28/14 and examined the exterior surfaces and appurtenances of the dwelling and the rear yard structure. Surveyed were:
  - Roof surfaces and ancillary components such as light gauge metal roof vents, drip edge and ridge cap.
  - Fascia
  - Siding
  - Guttering

Based upon photography made available in this matter, file documentation and my site observations, I believe the scope of work outlined in the Lloyds damage estimate addresses the limited storm damages that occurred at the Plaintiffs’ home.

- 2.1.2. Lloyds properly quantified the construction components, such as roof surface, roof vent caps, siding paint, etc. The quantities of materials shown in the Lloyds estimate were closely aligned with those I observed during my site inspection or gleaned from other file documentation.
- 2.2. Lloyds utilized Xactimate, a software estimating program with which I am familiar and use in the regular course of business to create accurate and reliable damage estimates.
- 2.2.1. The unit prices in the Lloyds estimate, when multiplied by the component quantities shown on each corresponding line item, produce an appropriate estimated cost for which the work can be performed.
- 2.3. Much of the restoration work estimated by Lloyds has not been performed. Examples include:

- The asphalt shingle roof has not been removed and replaced. I noted that the present shingle coursing pattern and other spatial markers match those shown in the Lloyds' adjuster's photographs.
- The metal roof replacement has not been performed.
- The gutter has not been replaced.
- No portion of the wood siding has been repainted.
- The metal vent caps have not been replaced.

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I understand that discovery is in progress. I reserve the right to supplement this report to address additional information made available to me and to provide illustrative exhibits at a later date. Please find attached as a part of this report my current Curriculum Vitae which lists publications I have authored during the last ten (10) years and all cases in which I have given testimony, both at deposition and trial, over the last four (4) years. It establishes my qualifications and my compensation.

Sincerely,



Michael J. Berryman  
BERRYMAN ENTERPRISES, INC.

15-04-15E Report



## **CURRICULUM VITAE**

**Name:** Michael J. Berryman

**Born:** September 23, 1957

Lincoln, Nebraska

### **Occupation:**

President and Chief Executive Officer

Berryman Enterprises, Inc.

General Contractor / Consultant

426 N.W. 5<sup>th</sup> Street

Oklahoma City, Oklahoma 73102

### **Formal Education:**

B.A., Vanderbilt University 1979

Molecular Biology

### **Licenses:**

Qualifying Agent (QA) and/or Qualifying Managing Employee (QME) for licensure and/or operating authorization in the following states:

Arkansas

Louisiana

Virginia

Mississippi

West Virginia

Nebraska

### **Honors, Awards:**

1996 Metro Journal Award

1997 Metro Journal Award

1998 Oklahoma Venture Forum Award

1998 Metro Journal Award

1999 Inc. 100 Award by Inc. Magazine and ICIC

**Building Codes:**

UBC	Uniform Building Code
BOCA	Building Officials and Code Administration
SBCCI	Southern Building Code Congress International
IBC	International Building Code

**Compensation Structure:**

Expert services and review, study, estimation and written opinions shall be billed at a rate of \$245.00/ hour.

Expert services at deposition and trial shall be billed at \$375.00/hour.

**Previous Depositions and Court Appearances:**

- 1) Nicolas Lopez v. Farmers Insurance Company, Inc.  
Case #: CIV-2010-584-HE  
United States District Court  
Western District of Oklahoma  
Deposition Date: March 8, 2011
- 2) ACT South and Allergy Clinic v. Reco Electric  
Case #: CJ-2004-7049  
District Court of Tulsa County, State of Oklahoma  
Trial Date: April 6, 2011
- 3) Laurie Jill Hast and Charles Ronald Mooney v.  
Forrester Consulting, Old World and Carillon Homes  
Case #: CJ-2008-6397  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: April 20, 2011
- 4) Thomas Hennebry and Candice Hennebry v.  
Wayne Long Construction, Inc., C&C Copper & Roofing, etc.  
Case #: CJ-2008-1377-BH  
District Court of Cleveland County, State of Oklahoma  
Deposition Date: August 17, 2011
- 5) Michael and Roxanne Rohleder v.  
Matt Wilson Custom Homes and Matt Wilson v  
Isch & Associates and Crazy Horse Construction  
Case #: CJ-2008-3807  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: September 12, 2011

- 6) Thomas Hennebry and Candice Hennebry v.  
Wayne Long Construction, Inc., C&C Copper & Roofing etc.  
Case #: CJ-2008-1377-BH  
District Court of Cleveland County, State of Oklahoma  
Trial Date: October 12, 2011
- 7) George and Anna Browning v.  
Mark Dale, Carriage Homes and  
American National Property and Casualty Insurance  
Case #: CJ-2009-5529  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: January 3, 2012
- 8) Linda Fly, Nina Jonson, and Nancy Sumrall as Co-Trustees v.  
Security General  
Case #: CJ-2005-6363  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: February 14, 2012
- 9) David Miller v. Jose Valdez Gonzales, TMC Construction Company, Inc.  
And TMC Construction Company, LLC  
Case #: CJ-2009-4287  
District Court in and for Tulsa County, State of Oklahoma  
Deposition Date: March 19, 2012
- 10) Larry Hammer and Renay Hammer v.  
State Farm Fire and Casualty Company  
Case #: 5:11-cv-00157-HE  
United States District Court  
Western District of Oklahoma  
Deposition Date: April 17, 2012
- 11) The Travelers Indemnity Company v.  
Jones Public Works Authority, A Public Trust, Town of Jones City, an  
Oklahoma Municipality, and Pipeline Regulatory Consultants  
Cause #: CJ-2009-1089  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: September 20, 2012
- 12) Todd N. Tipton and Constance J. Tipton v.  
Matt Wilson Custom Homes, LLC, and Matt Wilson, an individual  
Case #: CJ-2010-5567  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: September 24, 2012

- 13) Elizama G. Langer, individually and as the personal representative of the estate of Juergen J. Langer, Wolfgang Langer, Abraham J. Langer, Elizama I. Langer v. 3M Company a/k/a Minnesota Mining & Manufacturing Company  
Case #: BC447695  
Superior Court of the State of California  
County of Los Angeles  
Deposition Date: October 1, 2012
- 14) Aimee and Westley Carter v.  
Pool Pros, Pool Pros, Inc., and Dustin Marco  
Case #: CJ-2010-918  
District Court of Comanche County, State of Oklahoma  
Deposition Date: November 19, 2012
- 15) Linda Fly, Nina Jonson, and Nancy Sumrall as Co-Trustees v.  
Security General  
Case #: CJ-2005-6363  
District Court of Oklahoma County, State of Oklahoma  
Trial Date: December 6, 2012
- 16) Cesar Martinez v. Berryman Enterprises, Inc.  
Case #: CJ-2012-2430  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: December 19, 2012
- 17) Harvey McIntyre and Laverne McIntyre v. 3M Company  
Case #: 12-2-15555-1 SEA  
Superior Court of Washington for King County  
Deposition Date: January 10, 2013
- 18) Amy McHatton Jones v. Charles Jewell, Vernon Elmore and Elaine Elmore  
Case #: CJ-2011-265  
District Court of Carter County  
State of Oklahoma  
Deposition Date: February 5, 2013
- 19) John Milton Stephens and Sarah Stephens v. AC and S, Inc. et al  
Case #: RG-12-641010  
County of Alameda  
Superior Court of the State of California  
Deposition Date: February 21, 2013



- 20) The Kenneth Jack Holloway Separate Revocable Trust  
Dated September 17, 2002, as Amended v.  
Roberson Realty Group, Inc. and Steven Michael Roberson v.  
Impact Construction Services  
Case #: CJ-2010-2151  
County of Tulsa  
State of Oklahoma  
Deposition Date: March 12, 2013
- 21) Great Northern Insurance v.  
John Watson Landscape Illumination, Inc.  
Case #: 12-CV-25-CVE-FHM  
United States District Court  
Northern District of Oklahoma  
Deposition Date: April 12, 2013
- 22) Douglas W. Brant d/b/a Bethany Medical Clinic v.  
State Farm Fire and Casualty Company  
Case #: CIV-12-656 F  
United States District Court  
Western District of Oklahoma  
Court Hearing Testimony: May 1, 2013
- 23) Candelario Fuentes and Maria Fuentes v.  
State Farm Lloyds, State Farm General Insurance Company and State  
Farm Fire and Casualty Company  
Case #: 2010-61039  
11<sup>th</sup> Judicial District Court  
Harris County, Texas  
Deposition Date: July 3, 2013
- 24) Candelario Fuentes and Maria Fuentes v.  
State Farm Lloyds, State Farm General Insurance Company and State  
Farm Fire and Casualty Company  
Case #: 2010-61039  
11<sup>th</sup> Judicial District Court  
Harris County, Texas  
Trial Date: July 29 - 30, 2013
- 25) Todd N. Tipton and Constance J. Tipton v.  
Matt Wilson Custom Homes, LLC, and Matt Wilson, an individual  
Case #: CJ-2010-5567  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: September 4, 2013

- 26) Manuel Owen and Lyn Owen v.  
Farmers Insurance Company, Inc., a Kansas for profit insurance  
Corporation  
United States District Court  
Case CIV-12-384-JHP  
Eastern District of Oklahoma  
Deposition Date: October 31, 2013
- 27) Oolagah Assembly of God Church v.  
Western Fire Protection, Inc.  
Case #: CJ-2011-555  
District Court of Rogers County, State of Oklahoma  
Deposition Date: November 4, 2013
- 28) Jeanie Marvick and Bob Tharp v.  
State Farm Lloyds  
Cause #: 11-CV-1249  
56<sup>th</sup> Judicial District Court  
Galveston County, Texas  
Deposition Date: December 12, 2013
- 29) Paula Sue Miesowitz, as trustee of the Gray Family Revocable Trust  
Dated 5/12/93 v.  
Greater Plumbing, Inc., an Oklahoma Corporation, Doug Rankin,  
individually, Cole's Quality Construction, Inc., an Oklahoma Corp.  
Case #: CJ-2012-3635  
District Court in and For Tulsa County, State of Oklahoma  
Deposition Date: February 12, 2014
- 30) Shelba Bethel, an individual; The Shelba J. Bethel Trust; Lash  
Enterprises, LLC, an Oklahoma corporation v.  
Barnett-Clark Construction, LLC, an Oklahoma limited liability company;  
Comfortworks, Inc., an Oklahoma corporation; C&S Heating and Air  
Conditioning, Inc., an Oklahoma corporation; and Costigan & Associates,  
Inc., an Oklahoma corporation  
Case #: CJ-2010-55  
District Court of Cleveland County, State of Oklahoma  
Deposition Date: February 21, 2014
- 31) Trinity Baptist Church v. Brotherhood Mutual Insurance Services, LLC.  
and Sooner Claims Service, Inc.  
Case #: CJ-2011-1157  
District Court of Oklahoma County, State of Oklahoma  
Deposition Date: May 9, 2014

- 32) Kimberley K. Ramsey v. Farmers Insurance Company, Inc., a Kansas Corporation, and Farmers Insurance Exchange  
Case No. CJ-2013-962  
District Court of Cleveland County, State of Oklahoma  
Deposition Date: May 13, 2014
  
- 33) Maria D. Rodriguez v. State Farm Lloyds and Luke Andrew Garcia  
Case # DC-13-00992-K  
192<sup>nd</sup> Judicial Court Dallas County, Texas  
Deposition Date: June 4, 2014
  
- 34) Haiwang Tang and Xiaohong Hu v. Richardson Homes  
Case No. CJ-2012-0645  
District Court of Oklahoma County, Oklahoma  
Deposition Date: July 29, 2014
  
- 35) Gray Construction, Inc. and Burdette Construction Co., v. Laura E. Knight  
Case No. CJ-2012-545  
District Court of Canadian County, Oklahoma  
Deposition Date: August 7, 2014
  
- 36) AC Dwellings, LLC v. John W. Shawver, III and Carrie M. Shawver  
Case No. 71 527 E 00367 13  
American Arbitration Association  
Deposition Date: August 26, 2014
  
- 37) AC Dwellings, LLC v. John W. Shawver, III and Carrie M. Shawver  
Case No. 71 527 E 00367 13  
American Arbitration Association  
Testimony Date: September 17<sup>th</sup> and 18<sup>th</sup>, 2014
  
- 38) Bruce and Mary Ann Erickson v. A.O. Smith Corporation et al.  
Case No. 13-L-1962  
In the Circuit Court Third Judicial Circuit Madison County, Illinois  
Telephonic Deposition Date: October 21, 2014
  
- 39) Maria D. Rodriguez v. State Farm Lloyds and Luke Andrew Garcia  
Case # DC-13-00992-K  
192<sup>nd</sup> Judicial Court Dallas County, Texas  
Trial Testimony Date: October 29, 2014
  
- 40) Gwen LeClerc Revocable Living Trust v.  
Candelaria Foster, LLC  
Case No. 01-14-0000-5564  
American Arbitration Association  
Deposition Date: January 6 and 7, 2015

- 41) Don Allen & Donnie Allen (Father & Son)  
v Burlington Northern Santa Fe Railway Co  
Case No. CJ-2012-75  
In the District Court of Marshall County  
State of Oklahoma  
Deposition Date: January 19, 2015
- 42) John and Kelly Whitney v Alan and Erica Greenfield  
Case No. CJ-2013-3511  
In the District Court of Tulsa County, State of Oklahoma  
Deposition Date: January 28, 2015
- 43) Pavecon v Markwell Paving Company  
Case No. CJ-2011-9962  
In the District Court of Oklahoma County, State of Oklahoma  
Deposition Date: February 06, 2015
- 44) The Gwen LeClerc Revocable Living Trust v Candelaria Foster, LLC  
Case No. 01-14-0000-5564  
American Arbitration Association  
Trial Testimony Dates: Feb 26 and Feb. 27, 2015
- 45) Cynthia Stokes v. Asian Restaurant, LLC  
Case No: CJ-2013-2695  
In the District Court of Oklahoma County  
State of Oklahoma  
Deposition date: June 26, 2015